Outsourcing/Offshoring: Outline of staff presentation
JCOTS Advisory Committee on Integrated Government
October 5, 2004

I. Background

Outsourcing: When a company turns over responsibility, in whole or in part, for an internal business function to an outside service provider.

- "Company" referred to in the definition could also be a government agency, hiring a vendor through the procurement process to perform a task or service traditionally performed by that agency
- Traditional outsourcing is commonplace & has been done for years
- What is new: the model for outsourcing is becoming increasingly global

Offshoring: Labor performed in another country; relocation of business processes (including production & manufacturing) to a lower cost location, usually overseas.

- In large part, technology makes offshoring possible -- lower communication costs, fiber optic cables, the Internet
- All sectors of jobs can be outsourced, although most often we hear about customer service, IT, and call service operations being offshored

Note: Not all outsourcing is offshoring; not all offshoring is outsourcing. However, there is often an overlap -- offshore outsourcing.

Key policy questions for government in this arena: Is it okay to spend tax dollars overseas if it means a savings to the states? Does the state have an obligation to ensure that tax money stays in the United States?

II. Offshoring: Arguments Pro & Con

Pro	**Con**
Increases the number of American goods in foreign markets	Losing jobs overseas is bad for the economy
Encourages free trade	Social services costs to the states through unemployment and worker retraining
Creates a new demand for goods often purchased in the United States, such as computers	Hidden costs. Direct labor savings tempered by higher general operations costs, costs of shutting down domestic facilities, etc.
Repatriated earnings: extra profits earned by domestic companies offshore are sent back to the United States through taxes	Business problems due to cultural and language differences
Most often, lower level jobs are sent overseas, opening the door for the development of more advanced, higher-paying jobs domestically	No guarantee that only lower-level jobs are offshored -- technology makes it possible to offshore white collar jobs
Lower costs leads to more efficient spending and effective utilization of tax dollars in the public sector	No guarantee that increased profits by domestic corporations will be used to support domestic jobs
Increased competitiveness	Possible political instability
Bans against offshoring could lead to economic retaliation by other countries and could hamper the administration of public sector outsourcing	Questions about data security -- while a company would remain subject to US laws such as HIPAA, Fair Credit Reporting Act, etc., less security for data being moved and rerouted

III. Legislation

More than 35 states and the federal government have introduced legislation to limit or prohibit offshoring. The approaches include giving preference to domestic vendors in the procurement process, prohibiting work with companies that offshore, placing restrictions on offshore call centers, limiting the processing of certain data abroad, or providing tax benefits for keeping jobs in the United States.

Federal initiatives (all pending):

- Call Center Consumers Right to Know Act -- a company must disclose the location of its call center
- Jobs for America Act -- if laying off more than 15 workers for overseas jobs, company must give 90 days notice and include the reason for moving the jobs; includes civil penalties and rights to back pay, benefits and attorneys fees.
- Defending American Jobs Acts -- prohibits access to federal grants, loans, and loan guarantees if company lays off a greater percentage of workers domestically than abroad
- JOBS Act -- prohibits federal funds from being used for federal contract work offshore; prevents appropriation of funds to a state if the state does not certify that the money will not be spent on work outside of the United States
- Part of omnibus appropriation bill signed this year forbids certain government sectors from offshore outsourcing work to foreign companies

State initiatives:

- Tennessee was the first state to adopt legislation in this area. Tennessee authorizes the establishment of preferences in procurement for American companies that operate domestically and use U.S. workers for data entry and call centers.
- Arizona, Michigan & Minnesota have issued executive orders encouraging that work be kept in the United States or in that particular state. However, they do not prohibit offshoring.
    - Minnesota's executive order required developing policies addressing the use of US workers to perform state contracts and developing procedures for vendors working with the state to disclose and certify the country where the services will be performed
- The Alabama legislature passed a resolution "urging" procurement from businesses within Alabama
- Virginia -- 4 bills were introduced in the 2004 session addressing offshoring, and all were continued (see summary document).
    - Preference for goods produced in the U.S., goods & services produced by U.S. based companies, so long as bid is not more than 20% higher than lowest-responsive foreign bid
    - 3% preference to products produced in Virginia
    - Prohibition: Gov't may only contract with company that contracts that only citizens, legal aliens and people with valid visas perform services in contract or any subcontract.